

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

CASE NO. 4:06CR00041 BSM

ANTOINE DEMETRIS BAKER

DEFENDANT

ORDER

Antoine Demetris Baker's motion for a certificate of appealability from the order denying his motion to vacate, set aside, or correct prison sentence under 28 U.S.C. Section 2255 is denied. A certificate of appealability may only be issued if the petitioner has made a "substantial showing of the denial of a constitutional right." 28 U.S.C. §§ 2255(d); 2253(c)(2). Under the law of this circuit, this is a "modest standard." *See Randolph v. Kemna*, 276 F.3d 401, 403 n.1 (8th Cir. 2002).

Baker raised two arguments in his motion to vacate his prison sentence under 28 U.S.C. Section 2255, neither of which makes a substantial showing of the denial of a constitutional right. First, Baker argued that he did not plead guilty to all of the elements necessary to qualify him for a life sentence. Because the record clearly indicates that he did, in fact, plead guilty to all of the essential elements necessary to impose a life sentence, he has not made a substantial showing that his constitutional rights were violated.

Baker's second argument is that his legal counsel was ineffective because he was allowed to plead guilty while under the influence of psychotropic drugs. As stated in the October 8, 2013, order denying Baker's motion to vacate, this argument fails because the

undersigned witnessed the efforts of Baker's lawyers to have the case decertified as a death penalty case in order to allow him to enter a guilty plea. Further, psychiatric evaluations determined that Baker was competent to stand trial when he entered his plea. Therefore, because Baker has failed to make a substantial showing of the denial of a constitutional right, his motion for a certificate of appealability is denied.

IT IS SO ORDERED this 31st day of October 2013.


UNITED STATES DISTRICT JUDGE